

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-19, 21-24, and 27-31 are pending in the present application, Claims 1 and 27 having been amended, and Claim 2 having been canceled without prejudice or disclaimer. Support for the amendment to Claim 1 is found, for example, at page 1, lines 28 to page 2, line 9 of the originally filed specification. The amendment to Claim 27 addresses matters of form. Applicants respectfully submit that no new matter is added.

In the outstanding Office Action, Claims 1-31 were rejected under 35 U.S.C. §112, second paragraph; Claims 1-3, 5-19, and 21-24 were rejected under 35 U.S.C. §103(a) as unpatentable over Rutledge (*SMIL 2.0: XML for Web Multimedia*, IEEE Internet Computing, IEEE Service Center, Piscataway, September 2001) in view of Epstein (U.S. Patent No. 7,058,802), and further in view of Yoshimura (*Mobile Streaming Media CDN Enabled by Dynamic SMIL*, May 2002); and Claims 4 and 27-31 were rejected under 35 U.S.C. §103(a) as unpatentable over Rutledge, Epstein, Yoshimura, and Barrus (U.S. Patent 6,693,652).

Applicants respectfully submit that amended Claim 1 patentably distinguishes over a proper combination of Rutledge, Epstein, and Yoshimura. Amended claim 1 recites, *inter alia*,

an XML-based document that is interpreted by an entity playing back multimedia content...[and]

specifying, in the document, alternative media items to be reproduced when a change in the current QoS during playback prevents the initial continuous media from being played back, said alternative media items being specified with a choose element having a startmode attribute which specifies a playtime at which reproduction is started for a continuous media item of the alternative media items after an adaption to the change in the current QoS.

The outstanding Office Action relies upon Epstein to describe the specifying step. Epstein describes a satellite communication system with a server called a “headend” that sends content to user units via a satellite (Epstein, Fig. 1). The system in Epstein supports four different service levels, each being operated with different bandwidths (Epstein, col. 5, lines 38-40). The server includes a bandwidth manager that manages the different bandwidths, a web server that provides content, and an antenna that transmits the content according to a given service level (Epstein, Fig. 1 and corresponding description). If a service level in the system of Epstein is downgraded to a lower service level (Epstein, col. 7, line 57 to col. 8, lines 20), the alternative media item is not specified in an XML-based document that describes the alternative media item to be reproduced when there is a change in QoS and that is interpreted by the entity playing back the multimedia content on the user side. On contrary, in the system of Epstein, the downgraded service level is directly transmitted to the user via the satellite. Epstein is silent about specifying alternative media items in a document that is interpreted on the user side (the entity playing back the multimedia content).

Thus, Epstein does not disclose the claimed:

an XML-based document that is interpreted by an entity playing back multimedia content...[and]

specifying, in the document, alternative media items to be reproduced when a change in the current QoS during playback prevents the initial continuous media from being played back, said alternative media items being specified with a choose element having a startmode attribute which specifies a playtime at which reproduction is started for a continuous media item of the alternative media items after an adaption to the change in the current QoS.

Furthermore, Yoshimura does not cure the above-noted deficiencies in Rutledge and Epstein. Thus, a person of ordinary skill in the art could not properly combine Rutledge, Epstein, and Yoshimura to arrive at the invention defined by Claim 1.

In view of the above-noted distinctions, Applicants respectfully submit that Claim 1 (and any claims dependent thereon) patentably distinguish over Rutledge, Epstein, and Yoshimura when taken in proper combination.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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